

The Hon. Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESSIE N. CRUZ,

Defendant.

NO. CR20-135-RSL

**PRELIMINARY
ORDER OF
FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Jessie N. Cruz's interest in the following property:

- A. A sum of money in the amount of \$7,025, reflecting the proceeds Defendant Cruz obtained from her conspiracy to distribute controlled substances;
- B. An American Derringer Co. (A.D.C.) Model 1 .45 caliber pistol bearing serial number 057016 and any associated ammunition;
- C. A Walther Model PPS 9mm pistol bearing serial number AZ2878 and any associated ammunition; and
- D. A short-barrel shotgun of unknown make and model, with all identifying markings removed, and any associated ammunition.

1 The Court, having reviewed the United States' Motion, as well as the other papers
 2 and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of
 3 Forfeiture is appropriate because:

- 4 • The above-identified sum of money in the amount of \$7,025 is forfeitable
 5 pursuant to 21 U.S.C. § 853 as it reflects the proceeds the Defendant obtained
 6 from her *Conspiracy to Distribute Controlled Substances*, in violation of 21
 7 U.S.C. §§ 841(a)(1), (b)(1)(C) and 846;
- 8 • The above-identified firearms and associated ammunition are forfeitable
 9 pursuant to 18 U.S.C. § 853, as they facilitated Defendant's *Conspiracy to*
 10 *Distribute Controlled Substances*, in violation of 21 U.S.C. §§ 841(a)(1),
 11 (b)(1)(C) and 846;
- 12 • The above-identified firearms and associated ammunition are also forfeitable
 13 pursuant to 18 U.S.C. § 924(d)(1) by way of 28 U.S.C. § 2461(c), as they were
 14 involved in Defendant's *Possession of a Firearm with Obliterated Serial*
 15 *Number*, in violation of 26 U.S.C. §§ 5842, 5861(h), and 5871, and 18 U.S.C.
 16 § 2, and in Defendant's *Possession of Firearms in Furtherance of a Drug*
 17 *Trafficking Crime*, in violation of 18 U.S.C. § 924(c);
- 18 • Pursuant to the Plea Agreement she entered on January 29, 2021, the
 19 Defendant agreed to forfeit the above-identified property pursuant to 21 U.S.C.
 20 § 853 and 18 U.S.C. § 924(d)(1) by way of 28 U.S.C. § 2461(c), Dkt. No. 38,
 21 ¶ 12; and
- 22 • The sum of money in the amount of \$7,025 is personal to the Defendant;
 23 pursuant to Federal Rule of Criminal Procedure ("Fed. R. Crim. P.")
 24 32.2(c)(1), and no third-party ancillary process is required before forfeiting it.

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NOW, THEREFORE, THE COURT ORDERS:

1) Pursuant to 21 U.S.C. § 853, 18 U.S.C. § 924(d)(1) by way of 28 U.S.C. § 2461(c), and her Plea Agreement, the Defendant's interest in the above-identified property is fully and finally forfeited, in its entirety, to the United States;

2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will be final as to Defendant at the time she is sentenced, it will be made part of the sentence, and it will be included in the judgment;

3) No right, title, or interest in the above-identified sum of money in the amount of \$7,025 exists in any party of than the United States;

4) Pursuant to Fed. R. Crim. P. 32.2(e), in order to satisfy the \$7,025 sum of money, in whole or in part, the United States may move to amend this Order, at any time, to include substitute property having a value not to exceed \$7,025;

5) The United States Department of Justice, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and/or their authorized agents or representatives, shall maintain the above-identified firearms and associated ammunition in their custody and control until further order of this Court;

6) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the United States shall publish notice of this Preliminary Order and its intent to dispose of the firearms and associated ammunition as permitted by governing law. The notice shall be posted on an official government website – currently www.forfeiture.gov – for at least thirty (30) days. For any person known to have alleged an interest in the property, the United States shall, to the extent possible, provide direct written notice to that person. The notice shall state that any person, other than Defendant, who has or claims a legal interest in the property must file a petition with the Court within sixty (60) days of the first day of publication of the notice (which is thirty (30) days from the last day of publication), or within thirty (30) days of receipt of direct written notice, whichever is earlier. The notice shall advise all interested persons that the petition:

- a. shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property;
- b. shall be signed by the petitioner under penalty of perjury; and,
- c. shall set forth the nature and extent of the petitioner's right, title, or interest in the property, as well as any facts supporting the petitioner's claim and the specific relief sought.


7) If no third-party petition is filed within the allowable time period, the United States shall have clear title to the property, and this Preliminary Order shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

8) If a third-party petition is filed, upon a showing that discovery is necessary to resolve factual issues it presents, discovery may be conducted in accordance with the Federal Rules of Civil Procedure before any hearing on the petition is held. Following adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture, pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that adjudication; and,

9) The Court will retain jurisdiction for the purpose of enforcing this Preliminary Order, adjudicating any third-party petitions, entering a Final Order of Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to Fed. R. Crim. P. 32.2(e).

IT IS SO ORDERED.

DATED this 9th day of April 2021.



THE HON. ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

Presented by:

s/Jehiel I. Baer

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